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OFFICE OF PETITIONS

In re Application of :
Mese, Soliman, and Robison : DECISION REFUSING STATUS
Application No. 10/762,970 : UNDER 37 CFR 1.47(a)
Filed: 22 January, 2004 :
Atty Docket No. 30545.79 :

This is in response to the petition filed under 37 CFR 1.47(a) on 13 October, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 22 January, 2004, without an executed oath or declaration.

Accordingly, on 27 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2)-month period for reply was set.

In response, on 13 October, 2004, the present petition was filed, along with a four (4) month extension of time and a declaration naming Ali Mese, Mohamed Y. Soliman, and Clark Robison as joint inventors and signed by joint inventors Solimon and Robison on behalf of themselves and joint inventor Mese.

Petitioners assert that a copy of the application was sent to joint inventor Mese, but that he refused to sign the declaration. In support, petitioners have provided a copy of the cover letter transmitting the application papers to non-signing joint inventor Mese, as well as a file memorandum of a telephone conversation between registered patent attorney John W. Wustenberg and non-signing joint inventor Mese on 14 June, 2004, during which the non-signing inventor refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the renewed petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.¹

Specifically, there are uninitialed/undated alterations in the signature block for joint inventor Soliman. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the inventor to whom the corrections pertain (*i.e.*, joint inventor Soliman) must be provided with any renewed petition.

¹See 37 CFR 1.52(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn.: Office of Petitions

By hand: U.S. Patent and Trademark Office
 220 20th Street S.
 Customer Window, Mail Stop Petition
 Crystal Plaza 2, Lobby, Room 1B03
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



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